

**59-10-1022 Nonrefundable tax credit for capital gain transactions.**

(1) As used in this section:

(a)

(i) "Capital gain transaction" means a transaction that results in a:

(A) short-term capital gain; or

(B) long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(d) "Qualifying stock" means stock that is:

(i)

(A) common; or

(B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2008; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f)

(i) "Utah small business corporation" means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."

(2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

(a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

(b) 5%.

(3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

- (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
  - (i) to purchase qualifying stock in a Utah small business corporation; and
  - (ii) within a 12-month period after the day on which the capital gain transaction occurs; and
- (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.
- (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
  - (a) defining the term "gross proceeds"; and
  - (b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Enacted by Chapter 389, 2008 General Session